

## CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Ella Mintz	Team: Squad #8	CCRB Case #: 201602502	<input type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Wednesday, 01/13/2016 10:56 PM	Location of Incident: 46th Precinct stationhouse	Precinct: 46	18 Mo. SOL 7/13/2017	EO SOL 7/13/2017	
Date/Time CV Reported Thu, 03/24/2016 11:57 AM	CV Reported At: CCRB	How CV Reported: On-line website	Date/Time Received at CCRB Thu, 03/24/2016 11:57 AM		

Complainant/Victim	Type	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. POM Anthony Donato	07509	948904	046 PCT
2. SGT Laura Barbato	270	944350	046 PCT

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POM Valdrin Nikqi	07009	954177	046 PCT

Officer(s)	Allegation	Investigator Recommendation
A.SGT Laura Barbato	Abuse: Sergeant Laura Barbato authorized a strip-search of § 87(2)(b)	
B.POM Anthony Donato	Abuse: Police Officer Anthony Donato strip-searched § 87(2)(b)	

### Case Summary

On January 13, 2016, § 87(2)(b) was in Riva's Grocery Store located at 1824 Weeks Avenue in the Bronx when he got into a verbal altercation with Police Officer Anthony Donato, of the 46<sup>th</sup> precinct. PO Donato stopped § 87(2)(b) for disorderly conduct. § 87(2)(b) was escorted to the 46<sup>th</sup> Precinct stationhouse by PO Donato, Police Officer Valdrin Nikqi and Sergeant Laura Barbato so PO Donato could issue him a summons there. At the stationhouse, Sgt. Barbato allegedly authorized a strip search of § 87(2)(b) which PO Donato allegedly conducted. (Allegations A and B) § 87(2)(b) was released with summons § 87(2)(b) for § 87(2)(a) 160.50 § 87(2)(b)

### Mediation, Civil and Criminal Histories

- § 87(2)(b) rejected mediation.

- [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]

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### Civilian and Officer CCRB Histories

- This is the second CCRB case involving § 87(2)(b) (Board Review 02) § 87(2)(b)
- Sgt. Barbato has been a member of the NYPD for eight years and has been a subject in seven prior CCRB cases involving nine allegations. There are no substantiated allegations pled against her § 87(2)(g).
- PO Donato has been a member of the NYPD for five years and has been a subject in 16 prior CCRB cases involving 45 allegations. In 2011, allegations of a stop, retaliatory summons, and refusal to provide name/shield number were substantiated against him. The NYPD issued him command discipline for the name and shield allegations and disposed the other two allegations as no disciplinary action.

### Findings and Recommendations

#### Allegation A—Abuse of Authority: Sergeant Laura Barbato authorized a strip search of

§ 87(2)(b)

#### Allegation B—Abuse of Authority: Police Officer Anthony Donato strip searched § 87(2)(b)

§ 87(2)(b) filed this complaint with the CCRB two months following the incident; he stated that the reason for the delay was because he wanted to wait until his summons was resolved. § 87(2)(b) stated that he knew PO Donato from a previous incident where § 87(2)(b) had been stabbed in § 87(2)(b). (Board Review 03) PO Donato had questioned § 87(2)(b) about the incident; when § 87(2)(b) said he did not know who stabbed him, PO Donato was angry and § 87(2)(b) felt like PO Donato didn't believe him. On the night of the incident inside Riva's Grocery Store, PO Donato tapped § 87(2)(b) on the shoulder and brought up the stabbing saying sarcastically, "The guy hasn't killed you yet." § 87(2)(b) responded sarcastically, "Am I supposed to be dead?" PO Donato asked to see § 87(2)(b)'s ID. Before § 87(2)(b) could move, PO Donato frisked § 87(2)(b) and retrieved his wallet from his back pocket. PO Donato escorted

§ 87(2)(b) out of the bodega then transported him to the 46<sup>th</sup> Precinct stationhouse with PO Nikqi and Sgt. Barbato.

At the stationhouse, PO Donato took everything out of § 87(2)(b)'s pockets at the front desk and then took him to the bathroom next to the holding cells with PO Nikqi. PO Nikqi leaned on the doorway while PO Donato conducted a strip search. While § 87(2)(b) had his boxers off, Sgt. Barbato came into the bathroom and spoke with PO Nikqi, although § 87(2)(b) could not hear their conversation. After the strip search, PO Donato told § 87(2)(b) that if he wanted to keep his pants on in the holding cell, he would need to cut off his string. § 87(2)(b) did not want to cut his string off so he was placed in the cell with just his long johns on. About three hours later, PO Donato gave § 87(2)(b) a summons for disorderly conduct (Board Review 04) and § 87(2)(b) left the stationhouse.

All of the officers were aware of § 87(2)(b) prior to this incident; he is a known gang member and drug dealer and they have all participated in arresting him for drug related offenses. § 87(2)(b) often yells at them. The officers were consistent that inside the grocery store, § 87(2)(b) was making threats toward PO Donato, saying something to the extent of, "Take off your shield and we'll fight" and "I'm gonna kick your ass." PO Nikqi and PO Donato heard § 87(2)(b) say this, while Sgt. Barbato stated that PO Donato informed her of the threats after § 87(2)(b) was stopped. It would not have been safe for PO Donato to issue a summons inside the store because of § 87(2)(b)'s aggressive demeanor and because he was causing a scene by provoking other people to gather around. None of the officers had any suspicion that § 87(2)(b) had drugs on his person that night. It is undisputed among the officers that strip searching § 87(2)(b) was unnecessary and that Sgt. Barbato did not authorize a strip search and PO Donato did not strip search § 87(2)(b).

PO Nikqi stated that he escorted § 87(2)(b) to the bathroom located next to the cells; PO Nikqi did not recall if he did this alone or if PO Donato was there as well. (Board Review 05) In the bathroom, PO Nikqi inspected § 87(2)(b)'s shoes and belts. § 87(2)(b)'s socks were also removed because sometimes members of § 87(2)(b)'s gang hide razorblades in between their toes. PO Nikqi did not remember if § 87(2)(b) had any strings in any other articles of clothing, but if he did have a string in his pants it is possible that if § 87(2)(b) didn't want to cut the string off, § 87(2)(b) would have been asked to leave his pants outside the cell. PO Nikqi did not recall that specifically happening during this incident.

Sgt. Barbato stated that she stamped § 87(2)(b) into the command log while PO Nikqi and PO Donato filled out his pedigree information. (Board Review 06) § 87(2)(b)'s entry in the command log does not include mention of a strip search. (Board Review 07) PO Nikqi and PO Donato searched § 87(2)(b) and removed all his items so he could be placed in the cell area. At this time, § 87(2)(b) was angry, he was saying, "I can't believe you guys are doing this, I'm gonna file a lawsuit." Both PO Donato and PO Nikqi escorted § 87(2)(b) to the cell area. Sgt. Barbato never went back to the cell area. Sgt. Barbato saw § 87(2)(b) on the cameras from the desk, but did not recall if he was wearing pants at the time. The cameras are in black and white and show if there are people in the cells; they would not show what type of pants § 87(2)(b) was wearing.



Signature

Print

Date

Title/Signature
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